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Zoning Bylaw Review Committee report

Interim Report of the Zoning Bylaw Review Committee

The Charge to the Committee from Article 8 of the 1999 Town Meeting: "to determine, among other things, if there were sufficient differentiation among the different zones, if size restrictions were appropriate, if sufficient protection was provided to our historic and open spaces, and if the bylaw met the requirements of recent regulatory and judicial standards ... The committee shall propose and report suggested changes to improve the zoning bylaw to subsequent town meetings."

Committee Membership: A Representative of: the Redevelopment Board, Bruce Whelittle; the Department of Planning and Community Development, Alan McClennen and Joey Glushko; the business community, (presently vacant); the real estate community, Robert Fredieu; the Historical Commission, Pamela Meister; two lawyers, (presently vacant); and three town meeting members, John D. Leone, Chairman, and 2 vacancies. Freeland Abbott our former chairman and former town meeting member has resigned. We would like to recognize the extensive research support provided the Committee by the Department of Planning and Community Development. The committee is currently short five members and as such we do not have a quorum at our meetings. The lack of a quorum prevents the committee from taking any action relative to it's charge.

Background: Chapter 40A of the Massachusetts General Laws regulates Zoning in Massachusetts and sets limits on how Zoning By Laws may be used. Zoning should be a forward-looking process - the community decides what it wants to be, and implements Zoning By Laws to encourage development in that pattern. Zoning should not be an ad hoc process, such as when a developer's proposals are used to justify a zoning change. In all cases Zoning By Laws limit the rights of a property owner to do whatever he or she may desire with their property.

Progress during the past year:

1. At the last Town Meeting the Committee proposed a Home Rule Petition to allow Arlington to provide a measure of protection to its truly exceptional properties, so called "Special Places", that are not included in a Historic District. We had previously determined that there was no authority to do so available under either Chapter 40A, or Chapter 40C, which regulates Historic Districts. We determined that obtaining such protection under the auspices of Chapter 40C would be better than under Chapter 40A. Town Meeting approved a Home Rule Petition to provide the enabling statutory authority. Although Legislative hearings were held on the petition last fall, the full legislature did not act on the petition before it adjourned. The petition had to be refiled in the Spring of 2003.

In anticipation of Legislative approval of the Home Rule Petition the Zoning By Law Review Committee devoted great deal of effort in drafting the Special Places By Law. The proposed Special Places By Law is before you as Article 8. As the Former Chair of the Committee was informed, after his resignation, of the Selectmen's Hearing on Article 8 no one appeared to present it. The Legislature has not yet acted on our Home Rule Petition. We anticipate resubmitting the

Article at the next Town Meeting if the Legislature has approved the Enabling Legislation.

2. We have recognized the trend towards mansionization in Arlington. Land prices in Arlington have reached the point where it is profitable to tear down smaller houses and replace them with larger houses. Mansionization reduces the amount of open space available for visual perspective and natural drainage. We reviewed the Zoning statutes and case law to determine if it is possible to restrict new construction without rendering existing properties in Arlington non-conforming. The intent was to establish a different set of zoning standards for new construction. It appears that under Chapter 40A this is not feasible.

Future of the Committee: The Legislature is planning to revise Chapter 40B, the controversial subsidized housing statute. We understand that Chapter 40A which regulates Arlington's Zoning Bylaw may also be revised.

We respectfully request that the Moderator appoint five new members to the Zoning By Law Review Committee to enable it to continue its charge and the mandate of the 1999 Town Meeting. The Zoning Bylaw Review Committee,

By: John D. Leone, Chairman